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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,048	02/03/2006	Artur Lachowicz	S9025.0209	7390

32172 7590 01/31/2011
DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

EXAMINER

BOYLE, ROBERT C

ART UNIT	PAPER NUMBER
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1764

MAIL DATE	DELIVERY MODE
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01/31/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Attachment to Advisory Action

1. Applicant's response filed 1/24/2011 has been fully considered but is not persuasive.
2. Applicant argues that nothing of record teaches that glycidyl methacrylate (GMA) is capable of entering into the Michael addition reaction. This is not persuasive.
3. It is noted that GMA falls within the broad genus component (a) of claim 1: "compound having only one vinyl group".
4. It is the examiner's understanding that GMA can act as a Michael acceptor because it has a ketone adjacent to an alkene group. See pg. 3, ¶ 10 of the Office Action mailed 10/29/2010. Thus, the examiner has provided reasoning as to why GMA is expected to act as a Michael acceptor. This configuration allows the formation of an enolate intermediate which stabilizes and allows the Michael reaction to occur. Applicant has provided no reasoning as to why or how GMA would not act as a Michael acceptor.
5. Taking this into consideration, GMA in the presence of a Michael donor and a Michael catalyst under Michael reaction conditions must react to form the Michael addition product, and therefore the teachings of Dammann fall within the scope of the claims.
6. Because Dammann teaches of trimethylol propane triacrylate (b), ethyl acetoacetate (c), and glycidyl methacrylate (a) are combined and reacted together (col. 10-col. 11), Dammann falls within the scope of the claims.
7. Applicant notes that the vinyl compounds of claim 1 are those that are capable of entering into the Michael addition reaction. While the specification has provided a number of examples

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(pg. 9), the genus of “compound having only one vinyl group” is not limited to those examples, and it is presumed that a number of vinyl compounds not listed are capable of reacting in a Michael reaction. It is the examiner’s position that glycidyl methacrylate falls within the claimed genus, and no evidence has been provided that establishes otherwise. Since the PTO cannot conduct experiments, the burden of proof is shifted to the applicants. See *In re Best*, 562 F.2d 1252, 195 USPQ 430 (CCPA 1977).

8. The rejection presented in the previous Office Action establishes that trimethylol propane triacrylate (b), ethyl acetoacetate (c), and glycidyl methacrylate (a) are present together under Michael reaction conditions, and a curable resin is formed. While Applicant’s concerns regarding glycidyl methacrylate are appreciated, Applicant’s arguments alone are not sufficient to overcome the rejection of record.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT C. BOYLE whose telephone number is (571)270-7347. The examiner can normally be reached on Monday-Thursday, 9:00AM-5:00PM Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Vasu Jagannathan can be reached on (571)272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Robert C. Boyle/
Examiner, Art Unit 1764

/Vasu Jagannathan/
Supervisory Patent Examiner, Art Unit 1764